

AO 241 (Rev. 09/17)

JUN 10 2019

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
 HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

David J. Bradley, Clerk of Court

United States District Court		District:	
Name (under which you were convicted): Araceli Morales		Docket or Case No.: B-19-096 17-cCCR-4713-A	
Place of Confinement : Detention Center I, 1145 E. Harrison Street-Brownsville, TX 78520		Prisoner No.: 27168	
Petitioner (include the name under which you were convicted) Araceli Morales		Respondent (authorized person having custody of petitioner) v. Omar Lucio-Sheriff 7300 Old Alice Road Olmito, Texas 78575	
The Attorney General of the State of: Brownsville, Texas			

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging:
The County Court of At Law No. 1 of Cameron County, Texas 78520
- (b) Criminal docket or case number (if you know): 17-CCR-4713-A
- (a) Date of the judgment of conviction (if you know): 03/21/2019
- (b) Date of sentencing: 03/21/2019
- Length of sentence: 6 months in County Jail Suspend for 1 Year Probation
- In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
- Identify all crimes of which you were convicted and sentenced in this case: Driving While Intoxicated (DWI)
- (a) What was your plea? (Check one)

<input type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input checked="" type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

N/A

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: N/A

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? ☐ Yes ☒ No

If yes, answer the following:

(1) Name of court: N/A

(2) Docket or case number (if you know): _____

(3) Result: _____

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(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know): N/A(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result: _____

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(8) Date of result (if you know): _____

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: N/A

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No(2) Second petition: ☐ Yes ☒ No(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

Because I was not never brought before any courts to hear my violation of probation. I am unlawfully being held without a revocation hearing. This is the reason I brought this Extraordinary Writ.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Violation under the United States Constitution of the 5th and 14th Amendments and State of

Texas Constitution because Araceli Morales is being denied Her Rights to Have a Prompt Revocation of > even ✓

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Araceli Morales was arrested on January 23, 2019 for a Violation of Probation Warrant. She was taken into custody and beenn detained every since. A court hearing was set for February 28, 2019, for unknown reason the court reschedule the recovcation hearing without her getting any notices for rescheduling.

(b) If you did not exhaust your state remedies on Ground One, explain why: I had my immigration legal advocate get in contacted with the courts and the appropriate authorities because I do not speak English and ther no Legal Library Assistant here at the prison to help inmates. Also, my immigration legal advocate had contacted the courts and the probation officer and they still didn't act upon my requests.

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(c) Direct Appeal of Ground One:(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

There is no available motions for inmates that was not sentence

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: My immigration legal advocate had contacted the courts and my probation officer

GROUND TWO: Violation of the United States Constitution under the 5th and 14th Amendments and the State of Texas Constitution because Araceli Morales was Denied the Right to Have a Copy of her Violation - over ✓

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: I had my immigration legal advocate get in contacted with the courts and the appropriate authorities because I do not speak English and there is no Legal Library Assistant here at the prison to help inmates. Also, my immigration legal advocate had contacted the court and the probation officer and they still didn't act upon my requests.

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: No petitions are available until an inmate is sentence

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

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Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

_____(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

No petitions are available until a inmate is sentence

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : My immigration legal advocate had contacted the courts and the probation officer.
- _____
- _____

GROUND THREE: Violation under the United States Constitution under the 5th, 8th and 14thAmendments and the State of Texas Consitution because Araceli Morales is being Denied the Right to Bail on *over*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Araceli Morales has been detained for a period of 5 months and haven't been brought before any courts to be

heard on her violation of probation warrant when her immigration legal advocate had contacted the probation

officer and the courts that Araceli Morales is requesting to be brought before the courts to be heard.

Continue Ground: (1), Probation Hearing.

Continue Ground: (2), of Probation Revocation Report, and Araceli Morales was Denied the Rights to be taken before the Courts to be heard on Her Violation of Probation warrant which was filed on January 23, 2019.

Continue Ground: (3), the Violation of Probation Warrant.

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(b) If you did not exhaust your state remedies on Ground Three, explain why: There is no available motions for non-sentence inmates in the jail.

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: I had my immigration legal advocate to contact the courts and the probation officer and the probation officer and courts still did not act upon my request

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: All of above because there is no motions for non-inmates who are not ^{sentence} sentence

to being able to raise before any courts. I did have my immigration legal advocate contact the courts and probation officer and they still did not act upon my request.

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

None of this grounds had not been presented. The reason because the prison staff, stated there is no remedies for non-sentence inmates to exhaust

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: none

(b) At arraignment and plea: none

(c) At trial: none

(d) At sentencing: none

(e) On appeal: none

(f) In any post-conviction proceeding: none

(g) On appeal from any ruling against you in a post-conviction proceeding: none

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence: none- just being held

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: Granted Jurisdiction to Hear the Case, Grant and Order the Courts to Bring Araceli Morales before the Courts to be Heard on her Violation Probation, and to Grant and Order the Courts to give Bail on the Violation Of Probation Warrant, and to Grant Her Immediately Release.
or any other relief to which petitioner may be entitled.

Pro'se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 06/10/2019 (month, date, year).

Executed (signed) on June 10, 2019 (date).

Araceli Morales

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

